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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ROBERT TORCH, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

WINDSOR SURRY COMPANY, d/b/a
WINDSORONE; WINDSOR WILLITS
COMPANY, d/b/a WINDSOR MILL; and
WINDSOR HOLDING COMPANY

Defendants.

Case No. 3:17-cv-00918-AA

**PLAINTIFF'S SUPPLEMENT TO THE
JOINT STATEMENT RE STATUS OF
SETTLEMENT DISCUSSIONS**

NOW COME the Plaintiffs, by and through counsel, and respectfully submit Plaintiffs' Supplement To The Joint Statement Regarding Status of Settlement Discussions, stating as follows:

On or about August 2, 2019, the Parties submitted to this Court the aforementioned Joint Statement (ECF No. 66). Thereafter, on August 5, 2019, the Windsor Defendants unilaterally resubmitted a Joint Statement (ECF No. 67), purportedly to correct an allegedly inaccurate statement in the original August 2, 2019 submission. The statement at issue relates a scheduled June 20, 2019 mediation which was cancelled.

For the record, the Plaintiffs state unequivocally that their portion of the August 2, 2019, Joint Statement was entirely accurate and truthful. The Plaintiffs, through their counsel, made it clear to the Windsor's counsel that the June 20, 2019 mediation was not cancelled at the Plaintiffs' request. In fact, Plaintiffs' counsel provided Windsor counsel with a copy of an email from the mediator expressly stating that *the mediator* cancelled the mediation because Windsor had failed to provide a written or any other response to the Plaintiffs' June 7, 2019, offer of settlement. The mediator felt a mediation would be an "exercise in frustration" given the Windsor Defendants' lack of a response. As this written communication was provided by the mediator as part of the settlement process, the undersigned counsel requests that if reviewing said communication becomes necessary, that counsel are allowed to present it to the Court *in camera* or under seal.

Finally, the undersigned counsel can confirm that the first time he heard of the mediation being cancelled was on June 18, 2019. Plaintiffs' counsel telephoned the mediator because the Plaintiffs had not heard from the Defendants and the mediation was scheduled to commence in less than 48 hours. Specifically, one of the Plaintiffs' counsel, Charles Schaffer, was scheduled

to fly the next day (June 19) from Philadelphia to San Francisco to attend the mediation the following morning. Counsel contacted the mediator to make sure this was not going to be a wasted trip. It was then that Plaintiffs' counsel was told for the first and only time that the mediation was cancelled. Plaintiffs' counsel are ready and willing to submit Declarations confirming the aforementioned conversation, the existence of conversations on June 18 between Plaintiffs' counsel expressing their exasperation about the last minute cancellation, and can also provide a documentary record of the last minute cancellation of the above mentioned travel arrangements.

While counsel herein would usually never even think to trouble the Court with this sort of "he said she said" back-and-forth, the Windsor entities have plainly concluded that somehow attributing the cancellation of the mediation to the Plaintiffs will persuade this Court that continuing the stay is appropriate. For this reason, the undersigned want to make it abundantly clear that Windsor Defendants' statement that the Plaintiffs cancelled the mediation is not true, and that Plaintiffs's counsel did not make a false statement to this Court as part of the August 2, 2019 filing.

Respectfully Submitted

DATED this 5th day of August, 2019.

AUDET & PARTNERS, LLP

By: /s/ Michael McShane

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